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**GAMBLING — CASINOS AND
 RACETRACKS**

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I. Introduction

A. Overview

The purpose of this Legislative Guide is to provide a general overview of the gambling laws in Iowa as they relate to pari-mutuel wagering and casino-style gambling.

References made to the Iowa Code in this Legislative Guide are references to the 2013 Iowa Code. The Iowa Administrative Code and United States Code references are current through October 2012.

B. Historical Background

1. Prohibition Period

From statehood in 1846 until 1972, all types of gambling were prohibited in Iowa. Both the 1846 and 1857 Constitutions of the State of Iowa included the following provision: “No lottery shall be authorized by this state; nor shall the sale of lottery tickets be allowed.”¹ While the term “lottery” is often used to define a form of gambling or gambling game, its general legal meaning is “a chance for a prize for a price.”²

In addition to the constitutional provision, the Iowa Code also prohibited the possession of gambling devices³ and various forms of gambling.⁴ Specifically, Iowa Code chapter 726 prohibited gambling houses,⁵ gaming and betting,⁶ possession of gambling devices,⁷ betting pools,⁸ and lotteries.⁹

Based on these provisions, the Iowa Supreme Court ruled in 1963 that the award of an extra ball as a reward for scoring a given number of points on a pinball machine included an element of chance and, thus, the pinball machine was an illegal gambling device.¹⁰ In addition, a 1969 Attorney General opinion noted that bingo is illegal even for “senior citizens who have a meeting every week and ‘take a cash donation for coffee, rolls, etc. at the door’ and ‘with canned food or other donated items as prizes.’”¹¹ Bingo would be permitted “only by eliminating either the consideration [the participants] pay for the privilege of playing or the prize.”¹² The opinion concluded, “But, unfortunately, though many have tried, no one has figured a way to gamble without gambling, at least as far as I know.”¹³

¹ Iowa Const. art. IV, § 29(1846); Iowa Const. art. III, § 28(1857).

² Black’s Law Dictionary, p. 947 (6th ed. 1990).

³ Iowa Code chapter 99A (1971).

⁴ Iowa Code chapter 726 (1971).

⁵ Iowa Code § 726.1 (1971).

⁶ Iowa Code § 726.3 (1971).

⁷ Iowa Code § 726.5 (1971).

⁸ Iowa Code § 726.6 (1971).

⁹ Iowa Code § 726.8 (1971).

¹⁰ State ex rel. Harman v. Doe, 123 N.W. 2d 400 (Iowa 1963).

¹¹ 1969 Op. Iowa Att’y Gen. 170-171 (5/21/69).

¹² Id.

¹³ Id. at 171.



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2. Gambling Authorized

At the 1972 general election, the state electorate ratified an amendment to the Constitution of the State of Iowa repealing the constitutional prohibition on lotteries. While the result of this was the removal of the constitutional prohibition against lotteries, the statutory prohibitions against gambling remained. Since 1972, though, several exceptions to the general statutory prohibitions against gambling have been enacted.

Following repeal of the constitutional lottery prohibition, the General Assembly proceeded in 1973 to authorize games of chance such as bingo and raffles which could be conducted by specified organizations and individuals.¹⁴ Thereafter, pari-mutuel wagering at horse and dog racetracks was authorized in 1983;¹⁵ a state lottery was authorized in 1985;¹⁶ gambling on excursion boats was authorized in 1989;¹⁷ and slot machines were authorized at the pari-mutuel racetracks in 1994.¹⁸ Since 1994, the casino-style gambling authorized on excursion boats has been extended to pari-mutuel racetracks that operate slot machines¹⁹ and the requirement that excursion boat gambling had to be conducted on a boat that cruises²⁰ or at a facility that operates on water²¹ has been eliminated, thereby authorizing land-based gambling facilities.

II. Provisions Applicable To Pari-Mutuel Wagering and Casino-Style Gambling

A. Governance

Both pari-mutuel wagering²² and casino-style gaming²³ are governed by the Iowa Racing and Gaming Commission (IRGC).²⁴ The IRGC is created within the Department of Inspections and Appeals and consists of five members, appointed by the Governor and subject to confirmation by the Senate, who serve, at the pleasure of the Governor, up to a three-year term.²⁵ The IRGC has rulemaking authority relative to pari-mutuel wagering²⁶ and casino-style gaming²⁷ and appoints an administrator of the IRGC who serves a four-year term, subject to confirmation by the Senate.

¹⁴ 1973 Iowa Acts ch. 153.

¹⁵ 1983 Iowa Acts ch. 187.

¹⁶ 1985 Iowa Acts ch. 33.

¹⁷ 1989 Iowa Acts ch. 67.

¹⁸ 1994 Iowa Acts ch. 1021.

¹⁹ 2004 Iowa Acts ch. 1136.

²⁰ 2004 Iowa Acts ch. 1136.

²¹ 2007 Iowa Acts ch. 188.

²² Iowa Code chapter 99D.

²³ Iowa Code chapter 99F.

²⁴ See Iowa Code §§ 99D.7, 99F.4. For a summary of the activities of the IRGC since its inception see Chronology of the Iowa Racing and Gaming Commission, *available at*: <http://www.iowa.gov/irgc/Chronology.htm> (last visited November 19, 2012).

²⁵ Iowa Code § 99D.5.

²⁶ Iowa Code chapter 99D.

²⁷ Iowa Code chapter 99F.

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Membership on the IRGC is gender²⁸ and partisan²⁹ balanced. Members of the IRGC also receive an annual salary of \$10,000 and are reimbursed for actual expenses incurred up to a maximum of \$30,000 per year for the IRGC. Each member is covered by the blanket surety bond of the state.³⁰

Members are also subject to several conflict of interest restrictions. Members are not allowed to knowingly participate as an owner or trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state, place a wager on an entry in a race or on a gambling game, or have an interest in a business which is issued a concession operator's license or does business with a licensee.³¹ In addition, a member or a member's family member cannot hold an occupational license except an official's license or enter into any business dealing with an owner or lessee of a racetrack.³² Violations of these conflict of interest provisions is a serious misdemeanor.³³

B. Operational Requirements

1. Age Restrictions

Persons under the age of 21 are not allowed to make a pari-mutuel wager³⁴ or to wager on gambling games.³⁵ In addition, persons under the age of 21 are not authorized to enter the gaming floor³⁶ or wagering area³⁷ of a facility licensed to operate gambling games unless that person is employed at the licensed facility.³⁸ A person who violates any of these provisions is subject to a scheduled fine of \$500.³⁹

A person knowingly permitting a person under the age of 21 to make a pari-mutuel wager or gambling game wager is guilty of a simple misdemeanor.⁴⁰

2. Gambling Self-Exclusion

Each racetrack⁴¹ and gambling games⁴² licensee is required to establish a process to allow a person to be voluntarily excluded for life from that racetrack or gambling games facility and all other licensed gambling facilities. If any money or thing of value is owed to a voluntarily excluded person by a licensee as a result of wagers made by the person after the person has been voluntarily excluded, the money or thing of value cannot be paid to the person but is credited to the General Fund of the State.

²⁸ Iowa Code § 69.16A.

²⁹ Iowa Code §§ 69.16, 99D.5(3).

³⁰ Iowa Code § 99D.5(4).

³¹ Iowa Code § 99D.5(5).

³² Iowa Code § 99D.5(6).

³³ Iowa Code § 99D.5(6)(b).

³⁴ Iowa Code § 99D.11(7).

³⁵ Iowa Code § 99F.9(5).

³⁶ Iowa Code § 99F.1(14).

³⁷ Iowa Code § 99D.2(10).

³⁸ Iowa Code § 99F.9(6).

³⁹ Iowa Code §§ 99D.11(7), 99F.9(6), 805.8C(5).

⁴⁰ Iowa Code §§ 99D.24(2), 99F.15(2).

⁴¹ Iowa Code § 99D.7(23).

⁴² Iowa Code § 99F.4(22).



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3. State Debt Collection

Each racetrack⁴³ and gambling games⁴⁴ licensee must also collect debts owed the state from persons whose winnings are equal to or greater than \$1,200 per occurrence. The amount of the debt constitutes a valid lien against the winnings of the person and is collected from the winnings. Each licensee is provided electronic access to the names of persons indebted to the state for purposes of this setoff procedure.

4. Financial Limitations

Pari-mutuel and gambling game wagerers are also limited regarding the means of financing their wagers. A licensee cannot loan any person money or any other thing of value for the purpose of wagering and cannot permit a financial institution, vendor, or other person to dispense cash or credit through an electronic or mechanical device that is located in the wagering area or on the gaming floor.⁴⁵ In addition, a licensee cannot accept a credit card to purchase coins, tokens, or other forms of credit to be wagered on gambling games.⁴⁶

5. Smoking

Smoking tobacco products is permitted on the gaming floor of a licensed premises exclusive of any bar or restaurant located within the gaming floor which is an enclosed area.⁴⁷ Generally, smoking is prohibited in Iowa's public places.⁴⁸

C. Revenue Distribution — Rebuild Iowa Infrastructure Fund

Pari-mutuel wagering fee and tax revenue and gambling games tax revenue that would otherwise be deposited in the General Fund of the State pursuant to Iowa Code sections 99D.17 and 99F.11, respectively, are instead deposited in the Rebuild Iowa Infrastructure Fund pursuant to Iowa Code section 8.57, subject to certain priority allocations.⁴⁹ Prior to deposit in the Rebuild Iowa Infrastructure Fund, \$55 million in tax and fee revenue is deposited in the Revenue Bonds Debt Service Fund,⁵⁰ \$3.75 million in the Revenue Bonds Federal Subsidy Holdback Fund,⁵¹ \$15 million in the Vision Iowa Fund⁵² for bonds debt service, \$5 million in the School Infrastructure Fund⁵³ for bonds debt service, and up to \$66 million in the General Fund of the State.⁵⁴

⁴³ Iowa Code § 99D.28.

⁴⁴ Iowa Code § 99F.19.

⁴⁵ Iowa Code §§ 99D.9(6); 99F.7(10).

⁴⁶ Iowa Code § 99F.9(7).

⁴⁷ Iowa Code § 142D.4(10).

⁴⁸ Iowa Code § 142D.3.

⁴⁹ Iowa Code § 8.57(5)(e).

⁵⁰ Iowa Code §§ 8.57(5)(e)(1)(a)(ii), 12.89.

⁵¹ Iowa Code §§ 8.57(5)(e)(1)(a)(ii), 12.89A.

⁵² Iowa Code §§ 8.57(5)(e)(1)(b), 12.72.

⁵³ Iowa Code §§ 8.57(5)(e)(1)(c), 12.82.

⁵⁴ However, for FY 2012-2013, the \$66 million deposit to the General Fund is reduced to \$40 million and \$20 million is deposited in the Technology Reinvestment Fund. See Iowa Code § 8.57(5)(e)(1)(d)(ii)(B).



III. Pari-Mutuel Wagering — Iowa Code Chapter 99D

A. Licensing

1. Eligible Entities

Iowa Code chapter 99D allows wagering on the results of horse or dog races only when conducted at a licensed horse-race or dog-race meeting.⁵⁵ Entities eligible for a license are limited to the following:⁵⁶

- A qualifying organization as defined in section 513(d)(2)(C) of the federal Internal Revenue Code, which is exempt from federal income taxation under section 501(c)(3), 501(c)(4), or 501(c)(5) of the federal Internal Revenue Code.
- A nonprofit corporation which is organized as a nonprofit entity to promote educational, civic, public, charitable, patriotic, or religious purposes or which regularly conducts an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state.
- An agency, instrumentality, or political subdivision of the state.

2. License Conditions⁵⁷

Licenses are issued for a period of not more than three years and can be revoked by the IRGC for good cause shown. The IRGC decides the type, number, and location of all licensed racetracks and the number of required racing days. Licensees are not allowed to construct any portion of the racetrack on prime farmland outside of a city and are prohibited from assigning their authority to operate a race meeting to another person. In addition, a nonprofit corporation cannot be granted a license, or its license may be revoked, if it has been suspended by the racing board or commission of another state, has not demonstrated sufficient financial responsibility, has an unclear ownership status, has made a false statement of a material fact to the IRGC, has failed to meet any monetary obligation in connection with a race meeting, or there is substantial evidence that stockholders or officers of the nonprofit corporation are not of good repute and moral character.

B. Race Meets

1. Frequency

The IRGC establishes the frequency and type of dog and horse races.

For horse racing, the thoroughbred racing season cannot be less than 67 days and the quarter horse racing season cannot be less than 26 days.⁵⁸ For a licensee in Polk County, the thoroughbred and quarter horse racing seasons must be run independently unless the horse associations otherwise agree and live standardbred horse racing cannot be conducted at the horse racetrack. In addition, if the licensee wants to simultaneously telecast or televise any horse or dog race for the purpose of

⁵⁵ Iowa Code § 99D.4.

⁵⁶ Iowa Code § 99D.8.

⁵⁷ Iowa Code § 99D.9.

⁵⁸ Iowa Code § 99D.7(3).



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conducting pari-mutuel wagering, the licensee must schedule no less than 60 performances of nine live races each day of the season.⁵⁹

For dog racing, the only specific requirement applicable to all licensees is the requirement to schedule no less than 60 performances of nine live races each day of the season if the licensee wants to simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering.⁶⁰ However, if a licensee of a pari-mutuel dog racetrack in Dubuque, Black Hawk, or Pottawattamie County wants to conduct casino-style gaming, a minimum number of racing days and races per day are required. For a pari-mutuel dog racetrack located in Dubuque or Black Hawk County, the licensee is required to schedule at least 130 performances of 12 live races each day during a season of 25 weeks.⁶¹ For the pari-mutuel dog racetrack located in Pottawattamie County, the licensee is required to schedule at least 290 performances of 12 live races each day during a season of 50 weeks.⁶² Currently, pari-mutuel dog racetracks are located only in Dubuque and Pottawattamie counties.

2. Purses

The IRGC regulates the purse structure for both dog and horse race meetings including by establishing a minimum purse.⁶³

a. Horse Racing

Beginning January 1, 2012, the purse structure for all horse racing is required to be established so that 76 percent is designated for thoroughbred racing, 15.25 percent is designated for quarter horse racing, and 8.75 percent is designated for standardbred racing.⁶⁴ The purse moneys designated for standardbred racing is payable to a nonprofit corporation operated exclusively to support standardbred harness racing for purses at the state fair, county fairs, or other harness racing tracks approved by the IRGC, or for the maintenance or repair of harness racing tracks at the fairgrounds for such fairs or other harness racing tracks approved by the IRGC. For the horse racetrack in Polk County, the total annual purses for all horse racing cannot be less than 11 percent of the first \$200 million of adjusted gross receipts from all gambling games less the annual amount of money pledged by the owner to fund a project approved to receive Vision Iowa funds, and 6 percent of net receipts above \$200 million.⁶⁵ Of the purses designated for thoroughbred and quarter horse racing, 2 percent must be distributed to an organization representing owners of thoroughbred race horses and quarter horses, respectively.⁶⁶

⁵⁹ Iowa Code § 99D.11(6)(b).

⁶⁰ Iowa Code § 99D.11(6)(b).

⁶¹ Iowa Code § 99F.6(4)(b).

⁶² Iowa Code § 99F.6(4)(b).

⁶³ Iowa Code § 99D.7(5).

⁶⁴ Iowa Code § 99D.7(5)(b).

⁶⁵ Iowa Code § 99F.6(4)(a)(3).

⁶⁶ Iowa Code § 99D.7(5)(c).



b. Dog Racing

For dog racetrack licensees that are authorized to conduct gambling games, the IRGC approves an annual contract to be negotiated between the annual recipient of the dog racing promotion fund and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races.⁶⁷ If the two parties cannot reach agreement, each party must select a representative and the two representatives must select a third person to assist in negotiating an agreement.

3. Native Horses or Dogs

Special rules exist relative to races of and purses awarded to horses or dogs considered native to Iowa.

a. Eligibility

The Department of Agriculture and Land Stewardship determines whether a horse or dog is considered an Iowa-foaled horse or Iowa-whelped dog for purposes of the special provisions relative to native horses or dogs.⁶⁸

To be considered an Iowa-foaled horse, the foal must be from a mare meeting certain residency requirements.⁶⁹

To be considered an Iowa-whelped dog, the dog must have been whelped in Iowa and raised for the first six months of its life in Iowa by an owner who qualifies as a two-year resident of Iowa prior to whelping.⁷⁰

b. Races

Iowa law requires a licensee to hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs unless sufficient competition cannot be had among that class of horses or dogs on any day.⁷¹

c. Purse and Breeder Supplements

A portion of moneys wagered, called the breakage, is used to provide supplemental support for Iowa-foaled horses and Iowa-whelped dogs. "Breakage" is defined as the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of 10 cents.⁷² This amount is deducted from the pari-mutuel pool and then distributed to breeders and owners of Iowa-foaled horses and Iowa-whelped dogs. Of this amount, a sum equal to 12 percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog is paid at the end of the race meeting to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog.⁷³

⁶⁷ Iowa Code § 99F.6(4)(b).

⁶⁸ Iowa Code § 99D.22(1).

⁶⁹ Iowa Code § 99D.22(2).

⁷⁰ Iowa Code § 99D.22(5).

⁷¹ Iowa Code § 99D.22(1)(a).

⁷² Iowa Code § 99D.2(2).

⁷³ Iowa Code § 99D.22(1)(b).



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For horse races, the remaining breakage is retained by the licensee to supplement purses for races restricted to Iowa-foaled horses or to supplement purses won by Iowa-foaled horses by finishing first, second, third, or fourth in any other race.⁷⁴ However, of the remaining breakage, 2 percent is deposited into a horse racing promotion fund. The IRGC each year approves a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. Finally, at a minimum, no less than 20 percent of all net purse moneys distributed to each breed is designated for registered Iowa-bred foals in the form of breeder's awards or purse supplement awards to enhance and foster the growth of the horse breeding industry.⁷⁵

For dog racing, the remaining breakage is distributed so that 73 percent is retained by the licensee to supplement purses for races won by Iowa-whelped dogs, 25 percent is retained by the licensee and put into a stake race for Iowa-whelped dogs, and 2 percent is deposited into a dog racing promotion fund to be used by an IRGC-approved nonprofit organization for research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques.⁷⁶ Of the 25 percent retained for a stake race, 12 percent of the winner's share is set aside and distributed to the breeder of the winning greyhound and the remainder apportioned as purse moneys for the stake race.⁷⁷

4. Simulcast Races

In addition to live horse and dog races conducted at the racetrack of the licensee, Iowa law allows a racetrack licensee to accept wagers on horse or dog races that are simultaneously telecast within the racetrack enclosure so long as the racetrack licensee conducts at least 60 performances of nine live races each day of the racing season.⁷⁸

C. Wagering

1. Authorized Wagers

Iowa law specifies the authorized forms of pari-mutuel wagering on horse and dog races.⁷⁹ Wagering can only be conducted within the racetrack enclosure on horse or dog races held at the racetrack or that are simultaneously telecast within the racetrack enclosure.⁸⁰ Advance deposit wagering is also authorized and is an exception to the requirement of on-premises wagering.⁸¹

For wagering on live horse or dog races conducted at the racetrack, the permitted pari-mutuel wagering pools are for win, place, show, double, exacta, trifecta, tri-super,

⁷⁴ Iowa Code § 99D.12(1).

⁷⁵ Iowa Code § 99D.22(1)(c).

⁷⁶ Iowa Code § 99D.12(2).

⁷⁷ Iowa Code § 99D.12(2)(b).

⁷⁸ Iowa Code § 99D.11(6)(b).

⁷⁹ Iowa Code § 99D.11(1), (2).

⁸⁰ Iowa Code § 99D.11(3).

⁸¹ Iowa Code § 99D.11(3).



twin-trifecta, superfecta, quinella, quinella double, twin quinella, and several pick options.⁸² Similarly, all wagering on simulcasting must be made in accordance with IRGC rules on pari-mutuel wagering.⁸³ Rules in effect during live racing remain in effect during simulcasting where applicable.

2. Distribution and Calculation of Wagers

All permitted pari-mutuel wagering pools on various wagering options authorized by the IRGC are required to be separately and independently calculated and distributed.⁸⁴

From each of these wagering pools, an amount called the “takeout” or “takeout percentage”⁸⁵ is deducted, along with the breakage, and the remainder of the moneys in the pool constitutes the net pool for distribution as payoff on winning wagers. The takeout is used by the licensee to pay a portion of the purses as well as for expenses in operating the racetrack facility.

The takeout from each gross pool wagered varies based upon the nature of the wager and is established by the IRGC.

With respect to wagers upon horses or dogs selected to run first and most other wagers on horses or dogs in places or combinations, the takeout is 16 percent unless the IRGC authorizes, at the request of the licensee, a higher or lower percentage which is limited to not more than 18 percent.⁸⁶

However, a higher takeout percentage can be authorized for exotic wagers involving two or more horses or dogs. For exotic wagers involving not more than two dogs or horses, the IRGC must authorize, upon request, a higher or lower percent of the total sum wagered not to exceed 24, with the deduction authorized above 20 percent to be retained by the licensee.⁸⁷ Examples of these wagers are the daily double, exacta, and quinella.⁸⁸ For exotic wagers on three or more horses or dogs, the IRGC must authorize, upon request, a higher or lower takeout percent of the total sum wagered not to exceed 25, with the deduction authorized above 22 percent to be retained by the licensee, and 1 percent of all such exotic wagers are distributed as breakage to Iowa-foaled horses and Iowa-whelped dogs.⁸⁹ An example of these wagers is a trifecta.⁹⁰

Finally, a different takeout rate can be authorized, with prior approval of the IRGC, for a licensee wishing to participate in an interstate common wagering pool so as to

⁸² Iowa Admin. Code 491-8.3(1).

⁸³ Iowa Admin. Code 491-8.4(1).

⁸⁴ Iowa Admin. Code 491-8.3(1).

⁸⁵ Iowa Admin. Code 491-8.1.

⁸⁶ Iowa Code § 99D.11(5).

⁸⁷ Iowa Code § 99D.11(5).

⁸⁸ For a daily double, the wagerer must pick the winner of the first two races; exacta requires the first and second dog or horse to be picked in exact order; and quinella requires the wagerer to pick the first and second place without specifying the order of finish.

⁸⁹ Iowa Code §§ 99D.11(5), 99D.12, 99D.22.

⁹⁰ For a trifecta, the wagerer must pick the first three places of a race in exact order.



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achieve a common takeout rate with all other participants in the interstate common pool.⁹¹

3. Advance Deposit Wagering

An exception to the general requirement that wagering must be conducted on the premises of a licensed racetrack is advance deposit wagering.⁹² Advance deposit wagering is only authorized for the licensee of the horse racetrack located in Polk County. Advance deposit wagering is a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering. Unlike other pari-mutuel wagering that must be conducted at the racetrack, an advance deposit wager may be placed in person at a licensed racetrack enclosure, or from any other location via a telephone-type device or any other electronic means. Although advance deposit wagering may be conducted by the licensee, advance deposit wagering in Iowa is conducted through an advance deposit wagering operator who has entered into an agreement with the IRGC, the licensee of the horse racetrack located in Polk County, and the Iowa Horsemen's Benevolent and Protective Association.⁹³

The distribution of wagers generated through advance deposit wagering also differs from traditional wagering. Before granting an advance deposit wagering operator license, the IRGC, the horse racetrack, the Iowa Horsemen's Benevolent and Protective Association, and the prospective advance deposit wagering operator must enter into an agreement for the purpose of determining the payment of statewide source market fees and the host fees to be paid to the racetrack licensee and the horseman's association on all races subject to advance deposit wagering.⁹⁴ In addition, of the net revenue generated, less all taxes paid and expenses directly related to account deposit wagering incurred by the licensee of the horse racetrack located in Polk County, 50 percent must be designated for horse purses and 50 percent must be designated for the licensee for the pari-mutuel horse racetrack located in Polk County.⁹⁵

4. Unclaimed Winnings

Winnings that are unclaimed within 60 days after the close of a racing meet are forfeited to the state.⁹⁶ To the extent appropriated by the General Assembly, the funds are to be used by the Iowa Department of Agriculture and Land Stewardship to supplement native horse and dog purses.⁹⁷ The remaining funds are to be used by the IRGC to pay for the drug testing of horses and dogs.⁹⁸

⁹¹ Iowa Admin. Code 491-8.5(4).

⁹² Iowa Code § 99D.11(6)(c); Iowa Admin. Code 491-8.6.

⁹³ A contract between Prairie Meadows in Polk County and an advance deposit wagering operator, ODS Technologies d/b/a TVG Network, was approved by the IRGC on March 8, 2012. See Iowa Racing and Gaming Commission Minutes (March 8, 2012), available at: <http://www.iowa.gov/irgc/March%208%20Min.pdf>.

⁹⁴ Iowa Code § 99D.11(6)(c)(3).

⁹⁵ Iowa Code § 99D.11(6)(c)(2).

⁹⁶ Iowa Code § 99D.13(1).

⁹⁷ Iowa Code § 99D.13(2).

⁹⁸ Iowa Code § 99D.13(2).



D. Fees and Taxes

1. Fees

a. Regulatory Fee. Each racetrack licensee is required to pay a regulatory fee in an amount determined by the IRGC, using the amount appropriated to the IRGC plus the cost of salaries for no more than three special agents for each racetrack,⁹⁹ plus any direct and indirect support costs for the agents, for the Division of Criminal Investigation's racetrack activities.¹⁰⁰ Regulatory fees collected are generally deposited in the Gaming Regulatory Revolving Fund and appropriated by the General Assembly from that fund to pay all costs relating to racetrack, excursion boat, and gambling structure regulation.¹⁰¹

b. License Fee. Each licensee is required to pay a license fee of \$200 to the IRGC for each racing day of each horse race or dog race meeting.¹⁰²

2. Taxes

a. Horse Racetracks

i. Rate. The tax imposed on the gross sum wagered at each horse race meeting is 6 percent.¹⁰³ However, a tax credit of up to 5 percent of the gross sum wagered is granted to licensees to be used for debt retirement or operating expenses at the racetrack.¹⁰⁴ If the gross sum wagered in a year is less than \$90 million, then the tax credit is equal to 6 percent. The tax credit is first assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

ii. Distribution. If the racetrack is located in a city, 5 percent of the gross sum wagered is deposited with the IRGC, one-half of one percent is deposited in the general fund of the city, and the remaining one-half of one percent is deposited with the general fund of the county. If the racetrack is not located in a city, the one-half of one percent that would have been deposited in the general fund of the city goes to the IRGC.¹⁰⁵ The moneys retained by the IRGC are not deposited in the General Fund of the State as provided in Iowa Code section 99D.17, but are instead subject to the allocations of wagering tax revenues provided by Iowa Code section 8.57(5), as discussed in part II, section C, of this guide.

b. Dog Racetracks

i. Rate. The tax imposed on the gross sum wagered at each track licensed for dog races depends upon the gross sum wagered in the racing

⁹⁹ The cost of salaries for no more than three special agents is used to determine the regulatory fee for each racetrack licensee in Iowa as each licensee has also been issued a table games license at the time of publication of this guide.

¹⁰⁰ Iowa Code § 99D.14(2).

¹⁰¹ Iowa Code § 99F.20(1).

¹⁰² Iowa Code § 99D.14(3).

¹⁰³ Iowa Code § 99D.15(1).

¹⁰⁴ Iowa Code § 99D.15(2).

¹⁰⁵ Iowa Code § 99D.15(1)(a) - (b).



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season.¹⁰⁶ If the gross sum wagered in the racing season is \$55 million or more, the tax is 6 percent. If the gross sum wagered in the racing season is \$30 million or more but less than \$55 million, the tax is 5 percent. Finally, if the gross sum wagered in the racing season is less than \$30 million, the tax is 4 percent. However, a portion of the tax imposed must be set aside for retiring any debt of the licensee, for capital improvement to the facilities of the licensee, for funding of possible future operating losses, or for charitable giving depending upon the tax rate imposed.¹⁰⁷ If the tax imposed is 6 percent, the licensee must set aside one-sixth of the tax liability. If the tax imposed is 5 percent, 1 percent of the gross sum wagered in the racing season must be set aside. Finally, if the tax imposed is 4 percent, 2 percent of the gross sum wagered in the racing season must be set aside.

ii. Distribution. Of the taxes imposed, one-half of one percent of the gross sum wagered must be remitted to the treasurer of the city if the racetrack is located in the city, one-half of one percent of the gross sum wagered must be remitted to the treasurer of the county in which the racetrack is located, and the remaining amount must be deposited with the IRGC.¹⁰⁸ The moneys retained by the IRGC are not deposited in the General Fund of the State as provided in Iowa Code section 99D.17, but are instead subject to the allocations of wagering tax revenues provided by Iowa Code section 8.57(5), as discussed in part II, section C, of this guide.

c. Simulcast Races

A tax of 2 percent is imposed on the gross sum wagered on horse races and dog races which are simultaneously telecast.¹⁰⁹ The tax is in lieu of the taxes otherwise imposed on horse or dog races but the tax revenue from simulcast horse or dog races is distributed as provided for live horse or dog races.

E. Miscellaneous Provisions — Drugging and Numbing

The administering of drugs and numbing devices, substances, or procedures to a horse or dog before a race is generally prohibited. The application of ice or a freezing device or substance within two hours of a race is prohibited. Also, the use of surgery or other procedure to sever, inject, or remove nerves of a racing dog or horse is prohibited.¹¹⁰ However, for horses at the horse racetrack in Polk County, “drugging” does not include administering furosemide to horses determined to be bleeders or administering phenylbutazone.

¹⁰⁶ Iowa Code § 99D.15(3).

¹⁰⁷ Iowa Code § 99D.15(3)(c).

¹⁰⁸ Iowa Code § 99D.15(3)(b).

¹⁰⁹ Iowa Code § 99D.15(4).

¹¹⁰ Iowa Code §§ 99D.25, 99D.25A.



IV. Casino-Style Gambling — Iowa Code Chapter 99F

A. Licensing

1. Operating Licenses

a. Gambling Game License

Iowa Code chapter 99F allows wagering on a gambling game when conducted on an excursion gambling boat or at a gambling structure or racetrack enclosure at authorized locations by a licensee.¹¹¹ Entities eligible for a gambling game license are limited to the following:

- A qualified sponsoring organization.¹¹² A qualified sponsoring organization is either exempt from federal income taxation under sections 501(c)(3) through 501(c)(8), 501(c)(10), and 501(c)(19) of the federal Internal Revenue Code or an Iowa nonprofit corporation whether or not it is exempt from federal income tax.¹¹³
- A licensed pari-mutuel horse or dog racetrack that held a valid license to conduct pari-mutuel dog or horse racing pursuant to Iowa Code chapter 99D on January 1, 1994.¹¹⁴

b. Table Game License

A licensed pari-mutuel horse or dog racetrack that has a gambling game license is authorized to obtain a table games license if certain conditions are met.¹¹⁵ A table games license authorizes the holder to conduct gambling games to the same extent as nonracetrack gambling game licensees. Each of the three racetrack gambling games licensees existing at the time of publication of this guide has received a table games license.

c. Occupational License

An occupational license is required for persons who deal cards or operate gambling games.¹¹⁶

2. Location Restrictions — Referendum

Iowa law restricts the location of a gambling game licensee operation to only those counties that have approved a referendum authorizing the conduct of gambling games in that county.¹¹⁷

a. Initial Referendum

For racetrack licensees eligible for a gambling games license, the referendum to approve or disapprove the operation of gambling games at the

¹¹¹ Iowa Code § 99F.3.

¹¹² Iowa Code § 99F.5(1).

¹¹³ Iowa Code §§ 99F.1(20).

¹¹⁴ Iowa Code § 99F.4A(2). Eligible dog racetrack licensees located in Pottawattamie and Dubuque counties, and the eligible horse racetrack located in Polk County have obtained a gambling game license. See Iowa Racing and Gaming Commission: <http://www.iowa.gov/irgc/> (last visited November 26, 2012).

¹¹⁵ Iowa Code § 99F.4A(8).

¹¹⁶ Iowa Code § 99F.4(2); Iowa Admin. Code 491-6.2.

¹¹⁷ Iowa Code § 99F.7(11).



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racetrack must be submitted to the county electorate by the board of supervisors at the request of the racetrack licensee.¹¹⁸

For those counties seeking to permit or disallow the operation of gambling games at a nonracetrack facility in that county, a referendum to approve or disapprove the operation of gambling games must be submitted to the county electorate by the applicable board of supervisors upon receipt of a valid petition signed by eligible electors of the county equal in number to at least 10 percent of the votes cast in the county for the Office of President of the United States or Governor at the preceding general election.¹¹⁹

b. Effect of Vote

If the proposition to operate gambling games is approved by a majority of the county electorate voting on the proposition, the board of supervisors submits a proposition requiring the approval or defeat of gambling games to the county electorate in eight years, but no earlier, unless the operation of gambling games at a licensed facility in that county is terminated earlier.¹²⁰ However, if a proposition to operate gambling games is approved by a majority of the county electorate voting on the proposition in two successive elections, a subsequent submission and approval of a proposition is not required. In any event, an affirmative vote authorizing the conduct of gambling games in a county does not require the IRGC to approve a license to conduct gambling games at a facility in that county.

If the proposition to operate gambling games is not approved by a majority of the county electorate voting on the proposition, another referendum on the proposition cannot not be held until the eighth calendar year thereafter.¹²¹ In addition, if a license to conduct gambling games is in effect pursuant to a referendum, but is subsequently disapproved by a referendum of the county electorate, the license remains valid for a total of nine years from the date of original issue of the license or one year from the date of the referendum disapproving the conduct of gambling games, whichever is later.¹²²

B. Gambling Games

A gambling game is defined as any game of chance authorized by the IRGC.¹²³ Gambling games authorized by the IRGC include slot machines, video poker, and other video games of chance, both progressive and nonprogressive, and table games, to include craps, roulette, twenty-one (blackjack), baccarat, and poker.¹²⁴ However, for an eligible racetrack enclosure, “gambling game” does not include table games of chance or video

¹¹⁸ Iowa Code § 99F.7(11)(c).

¹¹⁹ Iowa Code § 99F.7(11)(a).

¹²⁰ Iowa Code § 99F.7(11)(d).

¹²¹ Iowa Code § 99F.7(11)(e).

¹²² Iowa Code § 99F.7(11)(b).

¹²³ Iowa Code § 99F.1(12).

¹²⁴ Iowa Admin. Code 491-11.5.



machines which simulate table games of chance unless the racetrack enclosure has a separate table games license.¹²⁵

C. Operational Requirements

1. Gambling Facility Type

The type of nonracetrack gambling game facility authorized to be operated by a licensee is generally at the discretion of the IRGC although some restrictions apply if other gambling game licensees operate in the county. For example, a person awarded a new license to conduct gambling games on an excursion gambling boat or at a gambling structure in the same county as another licensed excursion gambling boat or gambling structure can only be licensed to operate an excursion gambling boat or gambling structure that is located at a similarly situated site and operated as a substantially similar facility as any other excursion gambling boat or gambling structure in the county.¹²⁶ Licensees authorized to conduct gambling games on an excursion boat or moored barge may convert the license to authorize the conducting of gambling games at a gambling structure with the approval of the IRGC.¹²⁷ For all types of nonracetrack gambling game facilities, the minimum capacity is 250 persons.¹²⁸

a. Excursion Gambling Boats

Excursion gambling boats are defined to include both excursion boats and moored barges.¹²⁹ An excursion boat is defined as a self-propelled, floating vessel that is or has been previously certified for operation as a vessel,¹³⁰ while a moored barge is defined as a barge or vessel located on water that is not self-propelled.¹³¹ Both excursion boats and moored barges are authorized to operate on or within 1,000 feet of the high water marks of the rivers, lakes, and reservoirs of this state.¹³² In addition, both boats and barges conducting gambling games are subject to the exclusive jurisdiction of the Department of Natural Resources and are required to meet all of the requirements relating to water navigation.¹³³ For excursion boats, a licensee must also designate whether the excursion boat will or will not cruise.¹³⁴ If the excursion boat will cruise, the excursion boat must operate at least one excursion from April 1 through October 31 of each calendar year in order to conduct gambling games during the entire year and each excursion must consist of a minimum of one hour in transit.¹³⁵

¹²⁵ Iowa Code § 99F.1(12).

¹²⁶ Iowa Code § 99F.7(2)(c).

¹²⁷ Iowa Code § 99F.4D(2).

¹²⁸ Iowa Code § 99F.5(1).

¹²⁹ Iowa Code § 99F.1(10).

¹³⁰ Iowa Code § 99F.1(9).

¹³¹ Iowa Code § 99F.1(19).

¹³² Iowa Code § 99F.7(1).

¹³³ Iowa Code § 99F.7(14).

¹³⁴ Iowa Code § 99F.7(2)(a).

¹³⁵ Iowa Admin. Code 491-5.6(2).



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b. Gambling Structures

A gambling structure is a man-made stationary structure that does not include a racetrack enclosure which is subject to land-based building codes rather than maritime or Iowa Department of Natural Resources inspection laws and regulations.¹³⁶ Unless otherwise provided by law, the provisions governing gambling games on an excursion gambling boat are applicable to gambling games conducted at a gambling structure.¹³⁷

2. Charitable Distributions

An operating agreement entered into on or after May 6, 2004, between a gambling game licensee that is a qualified sponsoring organization and an operator of an excursion gambling boat or gambling structure must provide for a minimum distribution for educational, civic, public, charitable, patriotic, or religious uses that averages at least 3 percent of the adjusted gross receipts for each license year.¹³⁸ All gambling licensees, unless an operating agreement provides otherwise, are required to distribute at least 3 percent of the adjusted gross receipts for each license year for educational, civic, public, charitable, patriotic, or religious uses.¹³⁹

D. Fees and Taxes

1. Fees

a. Initial License Fee

Persons awarded a new license to conduct gambling games on or after January 1, 2004, are required to pay an initial license fee. The fee is payable in five installments with the entirety of the fee paid within four years of the granting of the license. The initial fee depends upon the population of the county at the time the license is granted.¹⁴⁰ If the population of the county is 15,000 or less, the fee is \$5 million. If the population is more than 15,000 and less than 100,000, the fee is \$10 million. If the population of the county is 100,000 or more, the fee is \$20 million. Moneys collected from the fee is deposited in the Rebuild Iowa Infrastructure Fund.

b. Annual License Fee

The annual license fee to operate an excursion boat or moored barge is based on the passenger-carrying capacity for which the excursion boat or moored barge is registered.¹⁴¹ For a gambling structure, the annual license fee is based on the capacity of the gambling structure. For all nonracetrack licensees, the annual fee is \$5 per person capacity.¹⁴² For a gambling game license at a

¹³⁶ Iowa Code § 99F.1(13).

¹³⁷ Iowa Code § 99F.4D.

¹³⁸ Iowa Code § 99F.5(1).

¹³⁹ Iowa Code § 99F.6(4)(a)(2). However, if the licensee has unpaid debt from the licensee's pari-mutuel racetrack operations, the first receipts of the gambling games operated within the racetrack enclosure less reasonable operating expenses, taxes, and fees allowed under Iowa Code chapter 99F must be first used to pay the annual indebtedness.

¹⁴⁰ Iowa Code § 99F.10(7).

¹⁴¹ Iowa Code § 99F.5(2).

¹⁴² Iowa Code § 99F.5(2).



racetrack, the annual license fee is not based on capacity but is instead \$1,000 per year.¹⁴³

c. Table Games License Fee

For racetracks authorized to conduct table games, an additional one-time table games license fee is required.¹⁴⁴ For racetracks with receipts from gambling games in the previous fiscal year of less than \$100 million, the table games license fee is \$3 million. For racetracks with receipts from gambling games in the previous fiscal year of \$100 million or more, the table games license fee is \$10 million. In both cases, the table games license fee may be offset by the licensee against wagering taxes imposed on the licensee to the extent of 20 percent of the table games license fee paid for each of five consecutive fiscal years. Moneys received from the table games license fees are deposited in the Rebuild Iowa Infrastructure Fund.

d. Regulatory Fee

Each nonracetrack gambling games licensee¹⁴⁵ is required to pay a regulatory fee in an amount determined by the IRGC which, together with other license and regulatory fees paid, will equal the amount appropriated to the IRGC plus the cost of salaries for no more than two special agents and, depending on patron capacity, no more than four or five gaming enforcement officers for each excursion gambling boat or gambling structure, plus any direct and indirect support costs for the agents and officers, for the Division of Criminal Investigation's excursion gambling boat or gambling structure activities.¹⁴⁶ Regulatory fees collected are generally deposited in the Gaming Regulatory Revolving Fund and appropriated by the General Assembly from that fund to pay all costs relating to racetrack, excursion boat, and gambling structure regulation.¹⁴⁷

e. Local Fees

A city may adopt, by ordinance, an admission fee not exceeding 50 cents for each person embarking on an excursion gambling boat docked within the city, or a county may adopt, by ordinance, an admission fee not exceeding 50 cents for each person embarking on an excursion gambling boat docked outside the boundaries of a city.¹⁴⁸ The admission revenue received by a city or a county is credited to the city or county general fund, as applicable.

¹⁴³ Iowa Code § 99F.4A(5).

¹⁴⁴ Iowa Code § 99F.4A(8).

¹⁴⁵ Racetrack licensees operating gambling games are required to pay the regulatory fee as determined pursuant to Iowa Code § 99D.14(2).

¹⁴⁶ Iowa Code § 99F.10(4).

¹⁴⁷ Iowa Code § 99F.20.

¹⁴⁸ Iowa Code § 99F.10(3).



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2. Taxes

a. Rate

The following wagering tax rates are imposed on the adjusted gross receipts¹⁴⁹ received each fiscal year by licensees from gambling games:

- Five percent of the adjusted gross receipts on the first \$1 million of adjusted gross receipts.¹⁵⁰
- Ten percent of the adjusted gross receipts on the next \$2 million of adjusted gross receipts.¹⁵¹
- For excursion gambling boats and gambling structures,¹⁵² and for racetracks not otherwise required to pay 24 percent,¹⁵³ 22 percent of the adjusted gross receipts over \$3 million.
- For racetracks¹⁵⁴ that have been issued a table games license with adjusted gross receipts from gambling games of \$100 million or more¹⁵⁵ or that are located in a county without another gambling games licensee,¹⁵⁶ 24 percent of the adjusted gross receipts over \$3 million.

b. Distribution

Of the taxes collected, an amount representing 1 percent of the adjusted gross receipts is remitted to the applicable city and county where the dock is located, with one-half remitted to the treasurer of the city in which the dock is located or which is nearest to the dock and the remaining one-half remitted to the treasurer of the county in which the dock is located.¹⁵⁷

An additional amount representing 1 percent of the adjusted gross receipts is distributed to a variety of charitable and governmental sources.¹⁵⁸ An amount equal to eight-tenths of one percent is deposited in the County Endowment Fund¹⁵⁹ to be used by an eligible Endow Iowa-qualified community foundation or community affiliate organization for charitable purposes. Only counties that do not have a gambling games licensee are eligible to select a foundation or organization to receive this money in that county. Of the remaining amount representing two-tenths of one percent of the adjusted gross receipts, \$520,000 is appropriated each fiscal year to the Department of Cultural Affairs for operational

¹⁴⁹ “Adjusted gross receipts” is defined in Iowa Code § 99F.1(1) as “the gross receipts less winnings paid to wagers.”

¹⁵⁰ Iowa Code § 99F.11(1).

¹⁵¹ Iowa Code § 99F.11(1).

¹⁵² Iowa Code § 99F.11(2)(a).

¹⁵³ Iowa Code § 99F.11(2)(b)(1).

¹⁵⁴ Prior law that had imposed a significantly higher tax rate for gambling games receipts from racetracks than for excursion boats declared violative of the Iowa Constitution. *Racing Assoc. of Central Iowa et al. v. Fitzgerald*, 675 N.W.2d 1 (Iowa 2004).

¹⁵⁵ Iowa Code § 99F.11(2)(b)(2).

¹⁵⁶ Iowa Code § 99F.11(2)(c).

¹⁵⁷ Iowa Code § 99F.11(3)(a), (b).

¹⁵⁸ Iowa Code § 99F.11(3)(c), (d).

¹⁵⁹ Iowa Code § 15E.311.

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support grants and the Iowa Community Cultural Grant Program.¹⁶⁰ Of the amount remaining, one-half is appropriated to the Community Development Division of the Economic Development Authority for the purposes of regional tourism marketing and one-half of the moneys remaining is used for the purpose of funding the Endow Iowa tax credit.¹⁶¹

Tax revenues remaining after the distribution of the amount representing 2 percent of the adjusted gross receipts are not deposited in the General Fund of the State as provided in Iowa Code section 99F.11, but are instead subject to the allocations of wagering tax and fee revenues provided by Iowa Code section 8.57(5), as discussed in part II, section C, of this guide.

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¹⁶⁰ Iowa Code § 303.3.

¹⁶¹ Iowa Code § 15E.305.